

TAB A

WILMERHALE

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Eric D. Levin

By Facsimile and Regular Mail

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Stephen T. Straub, Esq.
Ropes & Gray LLP
1251 Avenue of the Americas
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Re: Analog Devices, Inc. v. Linear Technology Corp.
Civil Action No. 00-CV-10841-EFH

Dear Steve:

Enclosed for your review please find a copy of a brief filed by Ropes & Gray LLP in a patent infringement action pending in the United States District Court for the District of Delaware, which addresses the scope of the waiver of the attorney-client privilege when a defendant relies upon an opinion of counsel to rebut a charge of willful infringement. In this brief, your firm argued that a recent decision by the Federal Circuit, In re EchoStar Communications Corp., 2006 WL 1149528 (Fed. Cir. May 1, 1996), holds that all communications with *trial counsel* are waived when a party obtains an opinion of counsel to rebut a charge of willful infringement after the initiation of litigation. Otherwise stated, your firm took the position that where a party obtains an opinion of counsel after the initiation of litigation, that party must produce all communications with its trial counsel (not merely communications with opinion counsel).

In this case, LTC waived the attorney-client privilege to rely upon an opinion of counsel it obtained *after* Analog filed suit in May 2000. See LC005289-5439; LC005440-5589 (Opinion Regarding U.S. Patent No. 5,684,481 by O'Keefe, Egan & Peterman, LLP). However, LTC has not produced any communications with trial counsel and its predecessor firm.

Please advise me promptly by June 1 whether LTC will produce all communications between LTC and trial counsel relating to infringement of the '481 patent and the RE083 patent so we can determine whether to approach the Court on this issue.

Please call me if you have any questions.

Very truly yours,



Eric D. Levin

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Enclosure